

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TENNESSEE**

IN RE:)
)
TRAVIS BRYAN HOLLIFIELD and,) **Case No. 3:20-BK-30913-SHB**
TRACY SLOAN HOLLIFIELD,)
)
Debtors.)

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 9013-1(h)(1)(i), the Court may consider this matter without further notice or hearing unless a party in interest files an objection. If you object to the relief requested in this paper, you must file with the Clerk of the Court at 800 Market Street, Howard H. Baker U.S. Courthouse, Knoxville, Tennessee 37902, an objection within fourteen (14) days from the date this paper was filed and serve a copy on the movant's attorney, Gregory C. Logue, 900 S. Gay Street, Suite 900, Knoxville, Tennessee 37902, and the Trustee, Ann Mostoller, 136 S. Illinois Avenue, Suite 104, Oak Ridge, Tennessee 37830. If you file and serve an objection within the time permitted, the Court will schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in this paper and may grant the relief requested without further notice or hearing.

**COMMERCIAL BANK'S SECOND MOTION FOR
RELIEF FROM AUTOMATIC STAY**

Comes Commercial Bank, a secured creditor in the above-referenced Chapter 7 proceeding, by and through counsel, and moves this Court pursuant to 11 U.S.C. § 362(d)(1)(2), Fed. R. Bankr. P. 4001(a), and E.D. Tenn. LBR 4001-1 and 9013-1(h)(1)(i) and would show as follows unto this Honorable Court:

1. Travis Bryan Hollifield and wife, Tracy Sloan Hollifield (the "Debtors"), filed a Petition pursuant to Chapter 13 of the United States Bankruptcy Code on or about March 24, 2020. This case was converted to a Chapter 7 proceeding on September 30, 2020 [Doc 87]. The Debtors previously filed a Chapter 13 proceeding on or about November 15, 2019, which was dismissed on February 24, 2020.
2. This is a core proceeding within the scope of 28 USC § 157(b)(2)(G). This is a contested matter pursuant to Fed. R. Bankr. P. 9014.

3. On or about April 4, 2012, the Debtors executed a Promissory Note and Truth and Lending Disclosure Statement (the “Promissory Note”) in favor of Commercial Bank in the original principal amount of \$579,900.00. Simultaneously, with the execution of the Promissory Note, the Debtors, executed a Deed of Trust in favor of Commercial Bank, said Deed of Trust being of record as Instrument No. 201204090055898 in the Register’s Office for Knox County, Tennessee. Said property is known as 222 Spring Water Lane, Knoxville, Tennessee 37934. A copy of the Proof of Claim evidencing said Note and Deed of Trust is attached as *Exhibit 1*. The unpaid balance of Commercial Bank’s claim as of the petition date was \$529,213.16. The unpaid balance of Commercial Bank’s claim as of October 7, 2020 is \$551,517.51. (See *Exhibit 2.*)

4. The Debtors are in default in the payment of the Note and Deed of Trust in an amount of not less than \$47,216.56. The Debtors owe for the payment due on July 4, 2019 and all payments which became due thereafter. A previous foreclosure in 2019 was stayed when the Debtors filed their first bankruptcy case. Commercial Bank exercised its rights pursuant to the Deed of Trust to begin the second power of sale foreclosure proceeding immediately upon the Debtors’ first bankruptcy case being dismissed in February of this year.

5. The Debtors have failed to pay property taxes owing to Knox County, Tennessee in an amount of not less than \$13,944.28. The taxes are a secured claim and, therefore, the total amount of liens against the property now exceed \$565,000.00.

6. The Debtors’ failure to pay delinquent property taxes is cause for relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1). Further, the Debtors do not have any equity in the property, and the property is not necessary for an effective reorganization and, therefore, Commercial Bank is entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(2).

7. Commercial Bank previously filed a Motion for Relief from Automatic Stay [Doc 25]. Said Motion was resolved through the entry of an Agreed Order Resolving Commercial Bank's Motion for Relief from Automatic Stay [Doc 55]. This Motion is filed out of the abundance of caution and to the extent the previous Order did not already grant Commercial Bank relief from the automatic stay upon conversion to Chapter 7. The Chapter 7 Trustee was obviously not a party to the previous Order.

8. Commercial Bank prays the requirements of Fed. R. Bankr. P. 4001(a)(3) be waived allowing Commercial Bank to immediately proceed with power of sale foreclosure of the real property, and any necessary action needed to take possession of the property.

PREMISES CONSIDERED, Commercial Bank prays that it be granted relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1)(2) to conduct power of sale foreclosure and to take any other action necessary to obtain possession of the real property described in *Exhibit* known as 222 Spring Water Lane, Knoxville, Tennessee 37934.

Respectfully submitted this 7th day of October, 2020.

WOOLF, McCLANE, BRIGHT, ALLEN &
CARPENTER, PLLC

/s/ Gregory C. Logue
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CERTIFICATE OF SERVICE

I hereby certify that on October 7, 2020, a copy of the foregoing Second Motion for Relief from Automatic Stay, *Exhibits 1 and 2*, and proposed Order was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

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s/ Gregory C. Logue, Esq.

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